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Letter dated 12 May 2008 from the President of the International Criminal Tribunal for Rwanda to the President of the Security Council

I have the honour to transmit herewith the assessments of the President and the Prosecutor of the International Criminal Tribunal for Rwanda on the implementation of the completion strategy of the Tribunal, pursuant to Security Council resolution 1534 (2004), as at 1 May 2008 (see enclosure).

I should be grateful if you would transmit the attached report to the members of the Security Council.

(*Signed*) Dennis **Byron**
President

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Enclosure

[Original: English and French]

Report on the completion strategy of the International Criminal Tribunal for Rwanda

(as at 1 May 2008)

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INTRODUCTION

1. In its Resolution 1503 (2003), the Security Council urged the International Criminal Tribunal for Rwanda ("Tribunal") to formalize a strategy in order to allow it to achieve its objective of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008, and all of its work in 2010 ("Completion Strategy").

2. This report is submitted to the Security Council pursuant to its Resolution 1534 (2004). It outlines the progress made by the Tribunal towards implementation of its Completion Strategy as of 1st May 2008. This report should be read in conjunction with the previous reports submitted to the Security Council.[1]

1. ACTIVITIES IN CHAMBERS

3. The Tribunal is composed of three Trial Chambers and one Appeals Chamber. Each Trial Chamber may be divided into sections of three judges each, composed of both permanent and *ad litem* judges. The Appeals Chamber is composed of five permanent judges.

1. Activities at first instance

4. Since December 2007, one judgement concerning one accused was delivered. Four cases concerning seven accused are in judgement drafting phase and two-single accused cases are completed, with the closing arguments yet to be heard. There are six trials involving 19 accused currently ongoing. Two single-accused trials are scheduled to commence shortly. There are four new cases which are to be prepared for trial and four single-accused cases for which request for referral to Rwanda are pending.

(A) One judgement concerning one accused (Annex 1(A))

5. On 7 December 2007, Trial Chamber I rendered judgement in the *Karera* case. François Karera, a former *préfet* of Kigali-Rural, was convicted of genocide and crimes against humanity based on his participation in the killing of Tutsi in April and May 1994 at Ntarama Church, Rushashi commune in Kigali-Rural *préfecture* and in Nyamirambo sector in Nyarugenge *commune*, Kigali-Ville *préfecture*. He was sentenced to imprisonment for the remainder of his life. The Chamber heard 18 Prosecution witnesses and 25 Defence witnesses, including Karera, over 33 trial days.

[1] See the reports submitted to United Nations on 14 July 2003 and 29 September 2003, in connection with the General Assembly resolution 57/289 (2003) and the Tribunal's request to increase the number of *ad litem* judges sitting "at any one time". Completion Strategy reports were submitted to the President of the Security Council on 30 April 2004, 19 November 2004, 23 May 2005, 30 November 2005, 29 May 2006, 8 December 2006, 31 May 2007 and 21 November 2007.

(B) Four cases, involving seven accused, for which judgement is yet to be delivered (Annex 1 (B))

6. Four judgements involving seven accused are anticipated for delivery in the next months.

7. Trial Chamber I is drafting its judgement in the *Military I* case. In that case, which concerns four co-accused, the Chamber has heard 242 witnesses over 408 trial days. The Chamber is also engaged in judgement drafting in the *Renzaho* case. In that trial, 53 witnesses have testified over 49 trial days. The closing arguments were heard from 14 to 15 February 2008. Since December 2007, the Chamber has delivered two written and one oral decisions in the *Renzaho* case.

8. Trial Chamber II is engaged in judgement drafting in the *Rukundo* case. The Chamber heard the closing arguments on 20 February 2008. Fifty witnesses have testified over 66 trial days. Since December 2007, the Chamber has delivered two written decisions.

9. Trial Chamber III is preparing its judgement in the *Nchamihigo* case. The Chamber heard the closing arguments on 23 January 2008. It has heard 61 witnesses over 58 trial days.

(C) Two single-accused cases in which closing arguments are yet to be heard (Annex 1(C))

10. In the *Bikindi* trial, the Defence closed its case in November 2007. Trial Chamber III conducted a site visit in Rwanda from 14 to 18 April 2008. Over 61 trial days, the Chamber has heard 57 witnesses for both parties. The closing arguments will be heard from 28 to 29 May 2008.

11. In the *Zigiranyirazo* trial, the Defence closed its case in December 2007, after 88 trial days during which 67 witnesses testified. The closing arguments will be heard from 26 to 27 May 2008.

(D) Six ongoing trials involving 19 accused (Annex 1(D))

12. Trial Chamber I heard the completion of the Prosecution evidence in the *Nsengimana* case on 7 February 2008, as scheduled. The Defence case will be heard starting 2 June 2008. Since December 2007, this Chamber has delivered five decisions, including one granting a site visit in Rwanda.

13. Since December 2007, three different sections of Trial Chamber II have been engaged in three separate trials. The trial in the *Butare* case concerning six accused adjourned on 12 December 2007 and resumed on 21 January 2008 with the continuation of the presentation of the Defence case for Joseph Kanyabashi. The Chamber sat without interruption for full day sessions for nine weeks from 21 January until 20 March 2008. Over that period, the Chamber heard eight witnesses. The trial resumed on 15 April 2008 for the continuation of the Defence case for Kanyabashi. On 1st May 2008, six witnesses remained to be heard. In addition, from

22 until 28 April 2008, the Chamber heard the last Defence witness for Arsène Shalom Ntahobali via video-link. This witness was not available to testify earlier. Until 11 July 2008, the Chamber will complete hearing the evidence for the Defence for Kanyabashi and commence hearing the Defence case for Elie Ndayambaje, the last accused in the case. The Chamber will hold a further seven-week trial session after mid-August 2008. Since December 2007, this Chamber has delivered eight written and two substantive oral decisions. The *Butare* case involves the largest number of accused jointly tried at the Tribunal and has a complex procedural history.[2] As previously announced and despite few days of adjournments due to the unavailability or sickness of some witnesses, the evidence in this case is anticipated to be closed in 2008, while judgement drafting will spill over into 2009.

14. Trial Chamber II continued to hear the *Bizimungu et al.* case, which involves four co-accused. Having adjourned on 8 November 2007, the trial resumed on 28 January 2008 with the continuation of the presentation of the Defence case for Jérôme-Clément Bicamumpaka. Despite the fact that some Defence witnesses had yet to testify pending the resolution of a number of issues, the Defence case for Prosper Mugiraneza (the final co-accused in the trial) opened on 18 February 2008. Between 18 February and 18 March 2008, the Chamber heard 22 Mugiraneza Defence witnesses. On 20 and 21 February 2008, the Chamber heard one remaining Defence witness for Casimir Bizimungu. The proceedings were originally scheduled to run continuously until 27 March 2008. However, because some Mugiraneza Defence witnesses were unavailable, the Chamber adjourned on 18 March 2008. The trial resumed on 14 April 2008 for the remainder of the Defence case for Mugiraneza. During this session, the Chamber will also hear certain outstanding Bicamumpaka Defence witnesses and one Prosecution witness whom it ordered to be recalled for further cross-examination on a specific issue. The Chamber anticipates that it will sit until all of the remaining evidence in the case has been heard, subject to the mid-year judicial recess. The Chamber also scheduled a site visit in Rwanda in June 2008. Since December 2007, the Chamber rendered 25 written and 14 oral decisions. According to current projections, the evidence in this case will be closed in 2008 and judgement drafting will spill over into 2009.

15. Trial Chamber II continued hearing the *Military II* case, concerning four co-accused. The case adjourned on 14 December 2007 and resumed on 16 January 2008. The Chamber then sat for full day sessions until 5 March 2008 and heard 27 Defence witnesses for Augustin Ndindiliyimana. Over that period, the Chamber did not sit for 14 trial days, because of unavailable witnesses, a Defence request to meet with his client, a Prosecution request to meet on completion strategy and the hearing by the same composition of Trial Chamber II of the closing arguments in the *Rukundo* case. The case is scheduled to resume on 26 May 2008 and to run until 18 July 2008 for the completion of the Defence case for Ndindiliyimana and the commencement of the Defence case for François-Xavier Nzuwonemeye, the third co-accused. Since December 2007, the Chamber has issued six written and six oral decisions. As previously

[2] One of the judges in this Chamber was not re-elected for the third mandate (2003-2007). In its resolution 1482 (2003), the Security Council did not extend his mandate for the purpose of enabling him to continue sitting on the *Butare* case. On 15 July 2003, the Chamber decided that the trial should continue with a substitute judge under Rule 15 *bis* of the Rules. Appeals against this decision were dismissed by the Appeals Chamber on 24 September 2003.

announced, all the Defence cases are anticipated for completion in 2008. Judgement drafting will spill over into 2009.

16. On 30 April 2008, Trial Chamber III commenced the trial proceedings in the case of Callixte Kalimanzira, who is charged with genocide, or in the alternative, complicity in genocide, and direct and public incitement to commit genocide. The trial was initially scheduled to commence on 28 April 2008. Due to exceptional circumstances, the President had to reassign the case to another composition of Trial Chamber III. Considering the Tribunal's judicial calendar for 2008, if the trial did not commence within the scheduled slot, the next opportunity would be around mid-August 2008. This would seriously delay the Tribunal's work completion objectives. Finding a new Presiding Judge has proven difficult as all permanent judges are fully occupied. As a result of consultations with the Bureau of the Tribunal, composed of the President, Vice-President and Presiding Judges of each Trial Chamber, the best solution appeared to be to appoint the same composition of Trial Chamber III sitting in the *Karemera et al.* case to the *Kalimanzira* case. The first Prosecution witness is scheduled to be heard on 5 May 2008. The Prosecution case is expected to last 25 trial days. The evidence phase is anticipated for completion in 2008, and the judgement for delivery in the first half of 2009. The Chamber is currently consulting the parties in order to define a new judicial calendar. Since December 2007, two Trial Chamber's written and oral decisions were delivered in the case.

17. Trial Chamber III continued to hear the *Karemera et al.* case, involving three co-accused. The Prosecution case closed on 4 December 2007. The resumption of the trial was scheduled for 10 March 2008 for the commencement of the Defence case for Edouard Karemera (the first co-accused). However, the Chamber postponed the trial until 7 April 2008 to allow the accused further time and facilities for the preparation of their case, and to allow the Prosecutor further time to conduct investigations and prepare for cross-examination. Prior to hearing the first Defence witness for Karemera, due to exceptional circumstances, the Chamber recalled three Prosecution witnesses and heard, via video-link, the testimony of a Defence witness for Joseph Nzirorera. The Chamber also denied the Prosecution's request to reopen his case. Since December 2007, this Chamber has delivered 57 written decisions. The Chamber initially projected to sit on a continuous basis until the end of the Defence case, with short breaks. However, in view of the assignment of the same section of Trial Chamber III to the *Kalimanzira* case, trial sessions are projected to last approximately ten weeks longer than the initial projections. The Chamber is currently reconsidering its judicial calendar in consultation with the parties. Judgement delivery remains anticipated for the end of 2009.

(E) Two single-accused cases in which evidence will be heard shortly (Annex 2)

18. In the last Completion Strategy report, it was noted that six remaining accused detained in Arusha were awaiting trial. The Prosecutor has requested that the cases of four of them (Jean-Baptiste Gatete, Idelphonse Hategekimana, Gaspard Kanyarukiga and Yussuf Munyakazi) be transferred to Rwanda for trial. The status of those specific requests is dealt with in the next section. The trial of Callixte Kalimanzira, another detainee, has already begun, as mentioned above. The trial of one other detainee, Ephrem Setako, is ready for trial. The

evidence phase is anticipated for completion by the end of 2008, and judgement drafting will spill over into 2009. Setako is charged with genocide, or in the alternative complicity in genocide, crimes against humanity and serious violations of Article 3 common to the Geneva Conventions and Additional Protocol II of 1977. Since December 2007, the Pre-Trial Chamber has delivered one written decision in this case.

19. As previously announced the projected judicial calendar had to be reassessed as a result of the revocation of the referral of Michel Bagaragaza to the Netherlands.[3] Since the last Completion Strategy report, the Prosecutor and the accused filed a joint guilty plea on 14 April 2008. The President designated a section of Trial Chamber II to dispose of the case. The accused has yet to be transferred to the Tribunal. The judgement is expected to be delivered in 2008.

(F) Three new single-accused cases and one case of contempt of court (Annex 3)

20. As announced in December 2007 to the Security Council, four accused were arrested between June and October 2007. Two of them, Laurent Bucyibaruta and Wenceslas Munyeshyaka, had their cases referred to France pursuant to Rule 11 *bis* of the Tribunal's Rules of Procedure and Evidence (Annex 5). The two others, Dominique Ntawukuriryayo and Augustin Ngibatware, one in France and one in Germany, are still awaiting the completion of the judicial process for their transfer to the Tribunal. Furthermore, Callixte Nzabominana was arrested in Tanzania and immediately transferred to the Tribunal on 19 February 2008.

21. According to the respective indictments against the three recently arrested accused, each of them was in position of leadership in 1994: Ngibaratware was Minister of Planning, Nzabonimana was Minister of Youth in the Interim Government, and Ntawukuriryayo was *sous-préfet* in Butare *préfecture*. As high-ranking accused, it is considered that they should be tried at the Tribunal, in accordance with the Security Council Resolutions 1503 (2003) and 1534 (2004).

22. Provisions have been made in the judicial calendar to include each of those single-accused cases. Taking into account Trial Chambers and courtrooms availability, as well as the minimal time necessary for these cases to be ready for trial,[4] it would be possible to schedule their commencement near the end of the year. At best, the Prosecution case in each of those three trials could be completed by December 2008. For Ntawukuriryayo and Ngibaratware, the date of their transfer to the Tribunal may have an impact on this projection. It is then necessary to provide for a minimum of four-week break between the close of the Prosecution case and the commencement of the Defence case. Consequently, the Defence case in each of these trials

[3] On 13 April 2007, a Referral Chamber approved the referral of the Bagaragaza case for trial to the Netherlands. However, the Dutch Prosecutor later informed the ICTR Prosecutor that The Hague Court has declared its lack of jurisdiction in a similar case involving a Rwandan accused, Joseph Mpambara, for crime of genocide allegedly committed in Rwanda in 1994. As the Dutch Prosecutor had intended to assert the same jurisdictional basis to try Mr. Bagaragaza for genocide as it had for Mr. Mpambara, the ICTR Prosecutor considered that revocation was rendered necessary. This request was supported by the Dutch authorities. The Chamber granted the revocation.

[4] See e.g., Rule 66 of the Rules which provides that the Prosecutor must disclose no later than 60 days prior to the commencement of the trial the statements of all witnesses whom the Prosecutor intends to call to testify at trial.

could be completed in the first half of 2009, with judgement delivery in the second half of 2009.

23. On 24 December 2007, the Prosecutor filed an indictment against Léonidas Nshogoza, a former Defence investigator in the *Kamuhanda*, charging him with contempt of the Tribunal under Rule 77 of the Rules. A Judge of Trial Chamber III confirmed the indictment and issued a warrant for his arrest. The accused surrendered on 8 February 2008. He pleaded not guilty on all counts and is waiting for his trial to commence. The President appointed a section of Trial Chamber III to dispose of the case. It is anticipated that the judgement will be delivered by December 2008.

(G) Five pending referrals concerning five single-accused cases (Annex 4)

24. On 11 June 2007, the Prosecutor filed a motion for the referral of the case of one fugitive, Fulgence Kayishema, to Rwanda. In September and November 2007, the Prosecutor requested the referral of the cases of four accused detained at the Tribunal (Kanyarukiga, Hategekimana, Munyakazi and Gatete) to Rwanda. The President has assigned those requests to different sections of Trial Chambers I and III, which have cumulatively granted *amicus curiae* requests for, among others, the Republic of Rwanda, the Kigali Bar Association, Human Rights Watch (HRW), and International Criminal Defence Attorneys (ICDA). Since December 2007, the different Trial Chambers have delivered various decisions in connection with those requests for referral. On 24 April 2008, Trial Chamber III heard oral arguments of the parties and the *amici curiae* in the *Munyakazi* case. The adjudication of those referrals is being given the utmost priority.

25. The result of those requests cannot be prejudged since the decision to refer a case is a judicial decision to be taken, independently, by each Trial Chamber. Trial Chambers are not bound by a decision from another Trial Chamber. In determining whether to refer the case to a domestic jurisdiction pursuant to Rule 11 *bis* of the Rules, the Chambers will, among other things, satisfy themselves that the concerned State has jurisdiction to accept the case, that the accused will receive a fair trial in the courts of the State concerned, and that the death penalty will not be imposed or carried out. It is recalled that in the *Bagaragaza* case, the Chamber denied the Prosecutor's request to transfer his case to Norway because the concerned State had no jurisdiction to try the accused under international crimes. This decision was upheld by the Appeals Chamber. For similar reasons, the Chamber decided to revoke the subsequent referral of the *Bagaragaza* case to the Netherlands.

26. In light of this, it is necessary to envisage that the referral of those cases could be denied and that consequently there would be need to schedule four new trials at the Tribunal. As such, Trial Chambers I and III are overseeing the trial-readiness of those cases, in parallel with these Rule 11 *bis* proceedings, in case trial in Arusha is ultimately required. The Security Council will be updated on the progress made on these referral cases.

2. Activities at the Appeals Chamber

27. The Appeals Chamber delivered its judgement in the case of Athanase Seromba on 12 March 2008, bringing to 25 the total number of persons whose appeals have been completed. The Appeals Chamber is presently seized of appeals from judgement in the cases of Tharcisse Muvunyi and François Karera. On 13 March 2008, the Appeals Chamber heard the appeals in the *Muvunyi* case. That hearing was initially scheduled for 27 November 2007. Upon emergency application on the eve of the hearing, however, the hearing was postponed due to unavailability of Lead Counsel because of sudden illness. The Appeals Chamber is presently deliberating in the *Muvunyi* case. It is anticipated that it will deliver its judgement in this case before the end of the second quarter. The appeal in the *Karera* case was filed in January 2008 and is in the early stages of the briefing schedule. It is anticipated that oral arguments in this case will be heard in the third quarter of 2008 with judgement being delivered before the end of the year. Since the last report in December 2007, the Appeals Chamber rendered one decision disposing of an interlocutory appeal, five decisions concerning review or other requests, and 13 pre-appeal orders and decisions.

2. MEASURES TAKEN TO IMPLEMENT THE COMPLETION STRATEGY

28. The following section supplements prior Completion Strategy reports submitted to the Security Council and highlights some crucial measures and elements in the implementation of the Tribunal's Completion Strategy.

1. Judicial Calendar

29. The Tribunal has four courtrooms. Most of the Trial Chambers sit from Monday to Thursday, from around 9am to 5.30 or 6pm, with a 1.5 hour lunch break. Some Trial Chambers also sit on Fridays until approximately 1.00pm, as Fridays are half working days at the Tribunal. Fridays are also used by Trial Chambers for conducting deliberations on interlocutory motions or judgements and for facilitating administrative management of the trials.

30. Between December 2007 and June 2008, the four courtrooms were occupied by six different cases pending before six different Trial Chamber sections. Furthermore, additional Trial Chamber sections were designated to deal with pre-trial matters and referrals in other proceedings. In order to optimize the use of courtroom allocation and where possible, trial proceedings are scheduled so that the same Trial Chamber section hears two cases in consecutive slots. When more than four cases are scheduled to be heard over the same period, one courtroom is used for two cases heard in morning and afternoon sessions, respectively.

31. Relying upon the prior practice of the Tribunal, calculations and projections for new single-accused trials are premised on a 10 week average trial per case (five weeks for the Prosecution case and then the same time-frame for the Defence case). The Prosecutor has indicated that in single-accused cases, he intends to call approximately 20 to 25 witnesses. It is assumed, as a working tool, that the total time taken for the cross-examination of a Prosecution witness will normally not exceed the total time taken for the examination-in-chief of that

witness. The time needed for the presentation of the Defence case generally does not exceed the time required for the presentation of the Prosecution case. Experience shows that it may sometimes take less time.

32. Between the closure of the Prosecution case and the commencement of the Defence case, Trial Chambers have granted a break of one to four months in single-accused cases, depending on the circumstances, to allow the Defence adequate time for the preparation of its case. It may be recalled that Defence teams are generally composed of five members (one lead counsel, one co-counsel, one legal assistant and two investigators). The current judicial calendar is designed to include an average six-week break before the commencement of the Defence case. Some breaks are planned for a longer period when recess periods, vacations, or schedules for other trials make it necessary. After the closure of the Defence case, there will be another break to allow the parties to prepare and file their closing briefs. The closing arguments should be heard no later than three weeks after such filing, and the judgement drafting process immediately following it should take approximately three to four months for a single-accused case.

33. Multi-accused cases are highly complex and require increased flexibility with time standards. Both the Prosecutor and each accused have the right to cross-examine a witness called by another accused. In multi-accused cases, it is not unusual for a cross-examination to exceed an examination-in-chief, particularly if a witness gives evidence implicating more than one accused. Projections concerning such cases are therefore constantly reviewed in close coordination with the concerned Presiding Judges.

2. Management of Trial Proceedings

34. Trial Chambers have developed practices to ensure firm control over proceedings and the avoidance of undue delays, while upholding the rights of the Prosecutor to present its case and those of the accused to a fair trial.

35. The trial-readiness of cases has consistently improved. Experience has shown that the better a trial is prepared at the pre-trial stage, the fewer delays and interruptions will arise during trial proceedings. The Trial Chambers have effectively used pre-trial and pre-defence status conferences to streamline trial proceedings and identify with the parties issues to be resolved. In particular, disclosure issues that may affect the expeditiousness of the proceedings are monitored at the pre-trial stage.

36. Following the closure of the Prosecution case and where appropriate, Trial Chambers have taken decisions to streamline the charges against the accused. Where there was insufficient evidence upon which a reasonable trier of fact could find the accused guilty of one or several crimes charged in the indictment, Trial Chambers have entered judgements of acquittal on those counts. In cases where there was an absence of any evidence adduced by the Prosecutor on certain specific paragraphs of the indictment, Trial Chambers have found that the accused had no case to answer in relation to those paragraphs, resulting in the appropriate amendment of the indictment.

37. In the management of court proceedings, Trial Chambers have requested the parties to give, in advance, an estimate of the time required of each witness to give evidence. Where appropriate, and in the interests of justice, Trial Chambers have ordered a reduction in the number of witnesses and their allotted time for testimony. In multi-accused cases where each accused presents his or her case consecutively, Trial Chambers have requested that every accused be ready to call his or her own witnesses should no witness for the accused currently presenting his or her case be available at the time.

38. The Tribunal's Witnesses and Victims Support Section continues to provide essential support to Chambers and the parties in ensuring the attendance of witnesses in Arusha in a timely fashion, including the replacement of witnesses who are not available to testify at a given time.

3. Prosecutor's Re-deployment of Resources

39. All investigations in respect of the genocide were completed by the end of 2004, as requested by Security Council Resolution 1503 (2003). Since then, there was a significant strategic shift at the Office of the Prosecutor ("OTP") in the conduct of investigations. Now the OTP investigation arm concentrates on providing support in respect of trial preparation, ongoing trials, appeals and requests for referral of cases to national jurisdictions.

40. The Prosecutor ensures that the evidence in each case, and in particular the witnesses, is ready for trial. This reduces delays in trial preparation when the accused is transferred to the Tribunal. The case can be more readily assigned to a new Prosecution team if necessary or referred to a national jurisdiction pursuant to Rule 11 *bis* of the Rules. Once an individual is indicted, substantial investigations do not necessarily come to a halt. Additional investigations may be needed to replace the evidence of witnesses who may have died, to assist in the interviewing of witnesses prior to their travel to Arusha, to supplement and corroborate the evidence, and to address the Defence case and any necessary rebuttal. Furthermore, the prosecution of the cases requires active cooperation between national prosecuting authorities and the Tribunal in order to efficiently support on-going cases.

41. Should new trials commence at the Tribunal as a result of new arrests or cases not be referred to domestic jurisdictions, the OTP will have to reconsider the re-deployment of its resources, and where necessary, consider additional resources.

4. Securing the Arrest and Transfer of Indicted Persons at Large and New Indictments

42. As of 1st May 2008, 13 accused persons remain at large (Annex 6). Since the last Completion Strategy report, Callixte Nzabonimana, a top-level fugitive earmarked for trial in Arusha, was arrested in Tanzania, and immediately transferred to the Tribunal on 19 February 2008.

43. The Tracking Team within the Investigation Division of the OTP deploys all its efforts in locating fugitives. The Prosecutor continues to conduct diplomatic missions to several States with a view to securing their political support and cooperation for the arrest and transfer of the

remaining fugitives. State cooperation has also been strengthened with the assistance of Interpol and the adoption of a Resolution in July 2007 urging all National Central Bureaus to provide assistance to the Tribunal in arresting the remaining fugitives.

44. The Prosecutor intends to request the referral of the cases of most of the 13 remaining fugitives to national jurisdictions for trial. Four of them are, however, earmarked for trial at the Tribunal on the basis of the leadership roles they played during the 1994 genocide (Augustin Bizimana, Félicien Kabuga, Protais Mpiranya and Idelphonse Nizeyimana). In the event that those accused are arrested and transferred to the Tribunal, there will be need to consider whether and how they could be included in the Tribunal's judicial calendar and workload. The Security Council will promptly be informed of any new development in the matter.

45. The Prosecutor has also taken into account the Tribunal's mandate, as emphasized by Resolution 1503 (2003), to investigate reports of violations of international humanitarian law committed in 1994 by the Rwanda Patriotic Front (RPF). The Prosecutor continues to investigate cases against the RPF.

5. Transfer of Files and Referral of Cases to Competent National Jurisdictions

46. According to the Tribunal's mandate, as set forth by its Statute and Security Council Resolutions 1503 (2003) and 1534 (2004), the prosecution of individuals at the Tribunal should be focused on those who allegedly were in positions of leadership, and those who allegedly bear the greatest responsibility for the genocide. In determining whether an individual should be tried at the Tribunal, the Prosecutor considers, among other things, the alleged status and extent of the participation of the individual during the genocide, the alleged connection that the individual may have had with other cases, the need to cover the major geographical areas of Rwanda, the availability of evidence with regard to the individual concerned and the availability of investigative material for transmission to a State for national prosecution.

47. In light of those principles, the Prosecutor is continuously reviewing his files to determine those cases under investigation or in which an indictment has already been issued, which may be suitable for transfer or referral to national jurisdictions. The Prosecutor uses various guidelines to decide which of these cases should be earmarked for referral to national jurisdictions in terms of Rule 11*bis*, including the confidence that the accused would receive a fair trial in the State to which her or his case would be referred.

48. In view of the potential transfer of cases, the Prosecutor continuously holds discussions with various States. The Prosecutor continues to transfer to various States, including Rwanda, dossiers in respect of accused persons who were investigated but not indicted by his office. Many of the suspects are, however, in countries where judicial systems are under strain, arising from their own national judicial and prosecution workload. Other States have investigated the cases but not pursued them, and may be reluctant to re-open these cases. The Prosecutor has explored with a number of African countries the possibility of transferring cases to them. However, he has not yet secured an agreement with any African State other than Rwanda to accept referrals of cases from the Tribunal. Outside the African continent and in Europe specifically, the Prosecutor has so far managed to secure only three agreements in this regard.

49. There are, however, some jurisdictional and other legal issues that have not yet permitted the actual transfer of cases to those jurisdictions. It must be recalled that where an indictment against an accused has already been confirmed, the decision to refer the indictment to a national jurisdiction is one to be taken by the Chamber designated under Rule 11 *bis*. As explained above, the case of Michel Bagaragaza shows that there can be difficulties in the transfer process. In the event that referrals of some cases are not possible, the Prosecutor will need to consider alternative solutions. The Security Council will be kept informed on any development in that respect.

50. Thus far, the cases of two accused have been successfully referred to France. Requests for referral of five cases, including the case of one fugitive, are currently pending judicial determination.

6. Judges

51. The Trial Chambers of the Tribunal are composed of nine permanent and nine *ad litem* judges. The decision of the Security Council to extend the service of the judges until 31 December 2008 has greatly contributed to providing the Tribunal with the continuity and stability necessary for the efficient and effective planning and conduct of trials. Likewise, the Security Council's decision to create a pool of *ad litem* judges greatly contributed to speeding up the work of the Tribunal.

52. The addition of new cases to be tried at the Tribunal has generated an additional workload for Trial Chambers. Most of the judges are assigned to several cases at the same time, which result in continuous sitting in court over long periods. This has inevitably an impact on the time available for the Chamber to deliberate on and draft the judgement. The *Kalimanzira* case, in which the assignment of a new bench became necessary, has also shown the difficulty in finding new Presiding Judges as all permanent judges are fully occupied with in-court proceedings and judgements, and pursuant to Article 12 *quater* of the Statute, *ad litem* judges are not eligible to preside over a Trial Chamber. The Tribunal is currently considering what would be the most efficient and cost-effective way to discharge this new workload given that it is already in the process of downsizing. All judges have made plans to leave upon completion of their current assigned work. One permanent and one *ad litem* judges are already expected to resign in 2008. These are matters that the Tribunal will bring to the attention of the Security Council at the appropriate time.

7. Staff Management

53. The successful implementation of the Tribunal's Completion Strategy continues to depend on the dedicated work of its staff. It remains critical to retain their experience and their institutional knowledge.

54. The recommendation by the Advisory Committee on Administrative and Budgetary Questions (ACABQ) to the General Assembly to authorize on an exceptional basis the payment of a retention incentive to staff required to remain with the Tribunal until their services and posts are no longer needed, as set out in the drawdown plan of the Tribunal, was not endorsed

by the Fifth Committee of the General Assembly when it was presented this year. As a result, the high rate of essential staff departures is expected to continue. On the other hand, the Tribunal continues to pursue the internal (non-monetary) incentives and measures aimed at ensuring that the existing workforce is retained until the completion of its mandate.

55. The Tribunal is putting measures in place to ensure that the drawdown policy which it has started implementing by reducing staff by the end of 2008 and beginning of 2009 will not affect the remaining work of the Tribunal. Recently, program managers of the various sections and units of the Tribunal have participated in a three-day seminar addressing the challenges related to change management and tools for drawdown policies. Following that seminar, recommendations were adopted in view of implementing the best and most efficient practices in the downsizing process of the Tribunal.

56. However, in view of the three accused recently arrested who should be tried at the Tribunal and the current applications for referral of cases under Rule 11 *bis*, the implementation of the downsizing plan needs to be adjusted so that the Tribunal has the adequate resources to complete its trial work at the earliest possible time.

57. The Tribunal needs the continuous support of the Security Council and Member States to ensure that its most experienced staff remain with the Tribunal until the completion of its work.

8. Cooperation of States with the International Tribunal

58. The continued assistance of Members States is paramount to the successful accomplishment of the Tribunal's mandate. The arrest of the 13 remaining fugitives remains largely dependent on the full cooperation of States. Failure to arrest and try these fugitives would seriously impair the Tribunal's key objective of bringing justice, peace and reconciliation to Rwanda and the Great Lakes region. The date of their arrest and transfer to the Tribunal will impact on the downsizing process of the Tribunal's activities.

59. The referral of cases to national jurisdictions, the serving of sentences of convicted persons, the relocation of convicted persons who have served their sentence as well as the relocation of the acquitted persons, also require the continuous assistance and support of Member States. Two acquitted persons remain in Arusha, despite strenuous efforts made by the Registrar to find them place of residence.

9. Outreach and Capacity-Building

60. Increasing awareness of the Tribunal's work is crucial for peace and reconciliation in Rwanda. This is one of the Tribunal's core missions. The Tribunal's capacity-building programs for the Rwandan judicial sector are also essential for a successful Completion Strategy. Outreach and Capacity-Building activities will bolster the Tribunal's legacy. Since November 2007, the Tribunal has trained the Rwandan judicial sector in such areas as international criminal law and practice, prosecution strategies, law on indictments, advocacy, court-related information management and online legal research. The trainings benefited judges

of the Rwandan Supreme Court and of the High Court, to members of the Rwandan Bar Association, prosecutors, court information managers, and various judicial and academic institutions in Rwanda.

61. These capacity-building activities are generously funded by the European Commission to the Tribunal's Voluntary Trust Fund. Nevertheless, in the present reporting period, the workload has increased with a greater demand for capacity-building from national jurisdictions across Africa, including countries that have signed agreements on enforcement of sentences with the Tribunal. These factors require an increased project implementation pace. Further contributions from Member States are encouraged within the limited time span remaining.

10. Legacy of the Tribunal

62. Since 2005, in close cooperation with the ICTY, the Tribunal has focused attention on its legacy and most crucially on mechanisms necessary for disposing of residual issues when the Tribunal completes all trials and appeals on its dockets.

63. Since the last Completion Strategy report, the implementation of the joint archival strategy developed by the two *ad hoc* Tribunals in June 2007 has continued in close collaboration with the Office of Legal Affairs and the Department of Management. In addition, the Advisory Committee on the Archives ("ACA") has undertaken extensive and fruitful consultations with relevant stakeholders including governments, victims groups, international organizations, regional organizations and civil society worldwide, especially in the regions affected. The findings of the ACA, along with the outputs of other ongoing consultations directly undertaken by the Tribunals will form the basis of forthcoming informed recommendations to the Security Council for its consideration.

CONCLUSION AND UPDATED PROGNOSIS REGARDING THE IMPLEMENTATION OF THE COMPLETION STRATEGY

64. This report shows that the Tribunal remains on track with the majority of the projections announced in December 2007 to the Security Council. Judgements in four cases involving seven accused (*Bagosora et al.*, *Nchamihigo*, *Renzaho* and *Rukundo*) are expected in the coming months. Two additional judgements in two single-accused cases (*Bikindi* and *Zigiranyirazo*) are anticipated towards the end of 2008. Except for *Karemera et al.* case, the evidence phase in five ongoing trials involving 16 accused (*Butare*, *Bizimungu et al.*, *Kalimanzira*, *Nsengimana* and *Military II*) will be completed in 2008. As previously announced, judgement will be delivered by the end of 2008 in the *Nsengimana* case, and judgement drafting in the *Butare* and *Military II* cases will run into 2009.

65. The evidence phase in two other single-accused cases yet to start (*Bagaragaza* and *Setako*) is also projected to be completed in 2008. The revocation of the transfer of Michel Bagaragaza's case to the Netherlands created an additional workload for the Tribunal. However, it is anticipated that the judgement in his case will be delivered in 2008. Judgement

drafting in the *Setako* case will run into 2009 in view of the projected date by which the Defence case will be completed.

66. Due to unexpected circumstances that have arisen since the last Completion Strategy report, the projections for two of the multi-accused cases and one single-accused case had to be slightly reassessed. The trial in the *Bizimungu et al.* case progresses at expeditious pace. The completion of the evidence phase is still projected for 2008. However, in view of the complexity of that case and the possible assignment of the same section of the Trial Chamber to a new single-accused case, judgement writing is expected to run into 2009. The re-assignment of the *Kalimanzira* case to the same composition of the Trial Chamber sitting in the *Karemera et al.* case has some impact on the projections in each case. The judgement in the *Kalimanzira* case is anticipated for delivery in the first quarter of 2009. Because of the allocation of ten trial weeks to the *Kalimanzira* case, the trial sessions in the *Karemera et al.* case are now projected to last approximately ten weeks longer than initially anticipated. Judgement delivery, however, remains expected for the end of 2009.

67. The recent arrests of three accused alleged to have been in positions of authority during the 1994 genocide does affect the projections previously announced as to the completion of trial work by the end of 2008. All the necessary arrangements are taken to include them in the Tribunal's judicial calendar and workload. However, at best, their cases could be completed in the first half of 2009, with judgement delivery in the second half of 2009. Likewise, the decisions on referrals to domestic jurisdictions of four accused may have an impact on the current projections. Should the requests for referral be denied, the cases relating to each of those accused may fall back within the workload of the Tribunal. Should this occur, the current projections as to courtroom occupancy rate and assignments of Judges to other cases will have to be further adjusted.

68. Before those new situations had arisen, the Tribunal has already entered in the process of downsizing, thereby designing and implementing plans for a progressive reduction of its activities and staff. The mandate of the judges is due to expire by the end of the year. However, in light of the new developments due to exceptional circumstances, as mentioned above, the Tribunal would like to request the Security Council and Members States to consider an extension of the judges' mandate so that they may complete the cases at trial. It is further indispensable that the Tribunal be provided with adequate resources to respond to the new additional workload. The Tribunal's ability to maintain or improve upon its current level of efficiency is largely dependent on the retention of its highly experienced and qualified judges and staff.

69. As noted in the last Completion Strategy report, the workload of the Appeals Chamber is anticipated to increase substantially as trial work will progressively be completed. The President of the Tribunal is consulting with the President of International Criminal Tribunal for former Yugoslavia on that issue. The Security Council will be seized of the matter at the appropriate time.

ANNEX 1 (A)
STATUS OF JUDGEMENT DELIVERED AS OF 1ST MAY 2008: 36 ACCUSED IN 30 JUDGEMENTS

Case No.	Name	Former Title	Initial appearance	TC	Judgement
1	J. P. Akayesu	Bourgmestre of Taba	30 May 1996	TC1	2 September 1998
2	J. Kambanda	Prime Minister	1 May 1998	TCI	4 September 1998 (guilty plea)
3	O. Serushago	Businessman, Interahamwe leader	14 December 1998	TC1	5 February 1999 (guilty plea)
4	C. Kayishema	Prefect of Kibuye	31 May 1996	TC2	21 May 1999 (joinder)
	O. Ruzindana	Businessman	29 October 1996		
5	G. Rutaganda	Businessman, 2nd Vice-president of Interahamwe	30 May 1996	TC1	6 December 1999
6	A. Musema	Businessman	18 November 1997	TC1	27 January 2000
7	G. Ruggiu	RTLM Journalist	24 October 1997	TC1	1 June 2000 (guilty plea)
8	I. Bagilishema	Bourgmestre of Mabanza	1 April 1999	TC1	7 June 2001
9	G. Ntakirutimana	Doctor	2 December 1996	TC1	21 February 2003 (joinder)
	E. Ntakirutimana	Pastor	31 March 2000		
10	L. Semanza	Bourgmestre of Bicumbi	16 February 1998	TC3	15 May 2003
11	E. Niyitegeka	Minister of Information	15 April 1999	TC1	15 May 2003
12	J. Kajelijeli	Bourgmestre of Rukingo	19 April 1999	TC2	1 December 2003
13	F. Nahimana	RTLM Director	19 February 1997	TC1	"*Media* Case" (joinder) 3 December 2003
	H. Ngeze	Kangura Editor	19 November 1997		
	J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
14	J. Kamuhanda	Minister of Culture and Education	24 March 2000	TC2	22 January 2004
15	A. Ntagerura	Minister of Transport	20 February 1997	TC3	"*Cyangugu* Case" (joinder) 25 February 2004
	E. Bagambiki	Prefect of Cyangugu	19 April 1999		
	S. Imanishimwe	Lieutenant in FAR	27 November 1997		
16	S. Gacumbitsi	Bourgmestre of Rusumo	20 June 2001	TC3	17 June 2004
17	E. Ndindabahizi	Minister of Finance	19 October 2001	TC1	15 July 2004.
18	V. Rutaganira	Councillor of Mubuga	26 March 2002	TC3	14 March 2005 (guilty plea).

19	M. Muhimana	Councillor of Gishyita	24 November 1999	TC3	28 April 2005
20	A. Simba	Lieutenant-Colonel in FAR	18 March 2002	TC1	13 December 2005
21	P. Bisengimana	Bourgmestre of Gikoro	18 March 2002	TC2	13 April 2006 (guilty plea).
22	J. Serugendo	Technical Director, RTLM	30 September 2005	TC1	12 June 2006 (guilty plea).
23	J. Mpambara	Bourgmestre of Rukara	8 August 2001	TC1	12 September 2006
24	T. Muvunyi	Commander, Ecole Sous-officiers	8 November 2000	TC2	12 September 2006
25	A. Rwamakuba	Minister of Education	7 April 1999	TC3	20 September 2006
26	A. Seromba	Priest, Kivumu Commune	8 February 2002	TC3	13 December 2006
27	J. Nzabirinda	Youth organizer	27 March 2002	TC2	23 February 2007 (guilty plea)
28	J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	TC2	16 November 2007 (guilty plea)
29	GAA	Witness before ICTR proceedings	10 August 2007	TC3	4 December 2007 (contempt of Tribunal)
30	F. Karera	Prefect of Kigali	26 October 2001	TC1	7 December 2007

ANNEX 1 (B)
CASES WHERE JUDGEMENT DELIVERY IS AWAITED: 7 ACCUSED IN 4 CASES

Case No.	Name	Former Title	Initial appearance	TC	Judgement
31	T. Bagosora	Dir. of Cabinet, Ministry of Defence	20 February 1997	TC1	"*Military I* Case" (joinder). Started on 2 April 2002. Judgement expected in 2008.
	G. Kabiligi	Brigadier-General in FAR	17 February 1998		
	A. Ntabakuze	FAR Battalion Commander	24 October 1997		
	A. Nsengiyumva	Lieutenant-Colonel in FAR	19 February 1997		
32	T. Renzaho	Prefect of Kigali	21 November 2002	TCI	Started on 8 January 2007. Closing argument on 14 and 15 February 2008. Judgement expected in 2008.
33	E. Rukundo	Chaplain	26 September 2001	TC2	Started on 15 November 2006. Closing arguments on 20 February 2008. Judgement expected in 2008.
34	S. Nchamihigo	Deputy Prosecutor	29 June 2001	TC3	Started on 25 September 2006. Closing arguments on 23 January 2008. Judgement expected in 2008.

ANNEX 1 (C)
CASES WHERE TRIAL IS CLOSED BUT CLOSING ARGUMENTS ARE YET TO BE HEARD: 2 ACCUSED IN 2 CASES

35	S. Bikindi	Musician	4 April 2002	TC3	Started on 18 September 2006. Closing arguments on 28 and 29 May 2008. Judgement expected in 2008.
36	P. Zigiranyirazo	Businessman	10 October 2001	TC3	Started on 3 October 2005. Closing arguments on 26 and 27 May 2008. Judgement expected in 2008.

ANNEX 1(D)
ON-GOING TRIALS: 19 ACCUSED IN 6 CASES

	Name	Former Title	Initial Appearance	TC	Comments
1	H. Nsengimana	Rector, Christ-Roi College	16 April 2002	TC1	Started 22 June 2007. Completion mid-2008. Judgement expected in 2008.
2	P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	TC2	"*Butare* case" (joinder). Started on 12 June 2001. Completion in 2008. Judgement expected in 2009.
	A. S. Ntahobali	Interahamwe leader	17 October 1997		
	S. Nsabimana	Prefect of Butare	24 October 1997		
	A. Nteziryayo	Prefect of Butare	17 August 1998		
	J. Kanyabashi	Bourgmestre of Ngoma	29 November 1996		
	E. Ndayambaje	Bourgmestre of Muganza	29 November 1996		
3	C. Bizimungu	Minister of Health	3 September 1999	TC2	"*Bizimungu et al.* case" (joinder). Started on 5 November 2003. Completion in 2008. Judgement expected in 2009.
	J. Mugenzi	Minister of Commerce	17 August 1999		
	J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
	P. Mugiraneza	Minister of Civil Service	17 August 1999		

4	A. Ndindilyimana	Chief of Staff of Gendarmerie	27 April 2000	TC2	"*Military II* case" (joinder).
	F-X Nzuwonemeye	FAR Battalion Commander	25 May 2000		Started on 20 September 2004. Completion in 2008. Judgement expected in 2009.
	I. Sagahutu	2IC of Reconn. Battalion	28 November 2000		
	A. Bizimungu	Chief of Staff of FAR	21 August 2002		
5	E. Karemera	Minister of Interior, V-P of MRND	7 April 1999	TC3	"*Karemera et al.* case" (joinder).
	M. Ngirumpatse	D-G of Ministry of Foreign Affairs, President of MRND	7 April 1999		Started on 27 November 2003. Started *de novo* on 19 September 2005. Completion and Judgement expected in 2009.
	J. Nzirorera	President of National Assembly, S-G of MRND	7 April 1999		
6	C. Kalimanzira	Acting Minister of Interior	14 November 2005	TC3	Started 30 April 2008. Completion in 2008. Judgement expected in 2009.

ANNEX 2
AWAITING TRIAL: 2 ACCUSED WHOSE CASES WILL COMMENCE SHORTLY

Name	Former Title	Initial Appearance	TC	Likely Start Date
E. Setako	Colonel	22 November 2004	TCI	August 2008
M. Bagaragaza	Director General of Tea Factory		TC2	Guilty Plea

ANNEX 3
3 ACCUSED RECENTLY ARRESTED AND CASE OF CONTEMPT OF COURT

Name	Former Title	Location
A. Ngirabatware	Minister in the Interim Government	Germany
D. Ntawukuriryayo	*Sous-Préfet* of Butare *Préfecture*	France
C. Nzabonimana	Minister of Youth in the Interim Government	Detained at the Tribunal
L. Nshogoza	Former Defence investigator (contempt of Tribunal)	Detained at the Tribunal

ANNEX 4
FOUR DETAINEES AND ONE FUGITIVE FOR WHOSE REFERRAL OF THE CASE IS PENDING

Name	Former Title	Initial Appearance	Referral Chamber
I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	TC3
G. Kanyarukiga	Businessman	22 July 2004	TC1
Y. Munyakazi	Interahamwe leader	12 May 2004	TC3
J.-B. Gatete	Bourgmestre of Murambi	20 September 2002	TC1
F. Kayishema	Inspector of police	Fugitive	TC3

ANNEX 5
TWO ACCUSED WHOSE REFERRAL WAS GRANTED

Name	Former Title	Location
W. Munyeshyaka	Clergy	France
L. Bucyibaruta	*Préfet* of Gikongoro *Préfecture*	France

ANNEX 6
13 FUGITIVES

Augustin Bizimana	Idelphonse Nizeyimana
Felicien Kabuga	Ladislas Ntaganzwa
Fulgence Kayishema	Charles Ryandikayo
Protais Mpiranya	Charles Sikubwabo
Bernard Munyagishari	Jean Bosco Uwinkindi
Gregoire Ndahimana	Pheneas Munyarugarama
Aloys Ndimbati	